

## REMARKS

Claims 2, 4-6 and 25-27 have been canceled. Thus, only elected claims 1, 3 and 14-24 remain pending. Independent claim 1 has been amended to overcome formalities and to distinguish over the prior art of record. Accordingly, Applicants respectfully submit that the present application is in condition for allowance.

### **I. Objection to Specification**

*In the non-final Office Action dated April 22, 2009, the abstract and specification were subject to objection with respect to formalities.*

The abstract and specification have been amended according to the Examiner's suggestions recited on page 3 of the Office Action. No new matter was added.

Accordingly, Applicants respectfully request removal of the objection.

### **II. Objection to Claims**

*In the non-final Office Action dated April 22, 2009, claims 1-3 were subject to objection with respect to formalities.*

Claim 2 has been canceled, and claims 1 and 3 have been amended according to the Examiner's suggestions recited on pages 3 and 4 of the Office Action. No new matter was added.

Accordingly, Applicants respectfully request removal of the objection.

### **III. Claim Rejection - 35 USC §112, First & Second Paragraphs**

*In the non-final Office Action dated April 22, 2009, claims 1-3 are rejected as failing to comply with the written description requirement and as being indefinite.*

The above referenced rejections are based on the use of means-plus-function language in the claims, as filed.

Claim 1 has been amended to address this rejection. Claim 1, as amended, requires an “image forming system” including an “object” and a “multi-element magnifying optical path”. The “multi-element magnifying optical path” is required to include “focal length varying means”. The “focal length varying means” is required to comprise an “optical element, switchable into and out of the optical path in order to vary a distance between a viewer’s eye and the system”.

The “means” for varying the focal length is the “optical element”. No new matter was added. For example, see: page 2, lines 20-23; page 3, line 30, to page 4, line 7; and reference numeral (9) in FIG. 9 (which is “switched out” in FIG. 8) of the present application, as filed.

Accordingly, Applicants respectfully submit that claims 1 and 3, as amended, are in full compliance with the requirements of 35 USC §112, first, second and sixth paragraphs.

Accordingly, Applicants respectfully request removal of the rejections.

### **IV. Claim Rejections - 35 USC §103(a)**

*In the non-final Office Action dated April 22, 2009, claims 1-3 and 14-24 are rejected under 35 USC §103(a) as being obvious over U.S. Patent No. 6,476,944 B1 issued to La Russa in view of U.S. Patent No. 5,539,554 issued to Lebby et al.*

In the Office Action, it is readily acknowledged that La Russa fails to disclose the focal length varying means required by claim 1 of the present application. Accordingly, Lebby et al. is

cited with respect to this limitation. More specifically, FIGs. 4 and 5 and column 8, line 17, to column 9, line 37, of Lebby et al. are cited.

Claim 1 of the present application has been amended to distinguish over La Russa in view of the Lebby et al. patent. More specifically, claim 1 has been amended to require a “focal length varying means comprising an optical element, switchable into and out of the optical path in order to vary a distance between a viewer's eye and the system, at which distance a magnified object is viewable, without varying a direction in which the system is viewed.” No new matter was added. For example, see the illustration of the “eye” in FIGs. 2 and 3 and the direction in which the system is viewed. Also, see page 4, line 28, to page 5, line 7, of the present application, as filed.

Thus, claim 1, as amended, requires the optical element to be switchable into and out of the optical path thereby varying the distance between the viewer's eye and system required to properly view the magnified image. For instance, compare the distances illustrated in FIGs. 2 and 3 of the present application when optical element (9) is switched into and out of the optical path. However, claim 1 clearly requires that the viewing direction not be varied when the optical element is switched in and out. For example, compare FIGs. 2 and 3 of the present application with respect to the viewing direction being the same.

In contrast, Lebby et al. fail to disclose such a system. Lebby et al. disclose a virtual image mode in FIG. 4 in which the system is viewed from the left hand side of FIG. 4, level with lens system (77). For purposes of changing to a real image, (i.e. a direct view mode), image manifestation apparatus (74) of Lebby et al. must be deployed as shown in FIG. 5. The image manifestation apparatus (74) includes an exterior optical element (84) and an exterior screen (85) which add considerable bulk to the device. In this direct view mode, the image is projected onto

screen (85). The viewing direction of such an image is in a direction from the top margin of the drawing sheet of FIG. 5 (or possibly from the bottom margin of the drawing sheet of FIG. 5). In any event, the viewing direction of FIG. 5 is at a right angle with respect to the viewing direction of the device in the mode illustrated in FIG. 4 of the Lebby et al. patent.

In the present invention, the viewing direction is unchanged regardless of the mode of operation. This arrangement is more convenient to the user, provides a more compact structure, and results from a structural difference required by claim 1, as amended, relative to the device disclosed by the Lebby et al. patent. In the present invention, an optical element for varying focal length forms part of the multi-element magnifying optical path located within the device and is switched into and out of the optical path. In contrast, Lebby et al. add cumbersome externally-located optical elements at the end of the optical path.

Accordingly, Applicants respectfully request reconsideration and removal of the §103 obviousness rejection of claims 1, 3 and 14-24.

## **V. Conclusion**

In view of the above amendments and remarks, Applicants respectfully submit that the claim rejections have been overcome and that the present application is in condition for allowance. Thus, a favorable action on the merits is therefore requested.

Please charge any deficiency or credit any overpayment for entering this Amendment to our deposit account no. 08-3040.

Respectfully submitted,  
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